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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,489	08/30/1999	THOMAS J. SULLIVAN	0110754/629	9228

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/385,489

Applicant(s)

SULLIVAN ET AL.8

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-94 have been examined. Application 09/385,489 has a filing date 08/30/1999.

Board of Appeal Decision

2. In response to the Examiner Answer filed 07/18/03, the Board of Appeal decision filed 5/19/04 affirmed the Examiner's rejection of claims 33-36 under 35 U.S.C. § 102, reverse the Examiner's rejection of claims 1-17, 19-32, 37-62, 64-82 and 84-94 under 35 U.S.C. § 102 and reverse the Examiner's rejection of claims 18, 63 and 83 under 35 U.S.C. § 103. The Board decision with respect to claim 84 that Jones does not teach capturing the terms of the trade promotion including link codes for associate discounts if any of the trade promotions are electronically discount trade promotions have been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sloane (U.S. 5,918,211). The Board decision with respect to independent claims 1, 23, 37, 47, 68, 74, 77 and 88-90 that Jones does not teach that the independent system operator performs the settlement of determining the amount of money the manufacturer owes to the retailer for the trade promotion and facilitating the manufacturer payment and the amount of money owed to the retailer for the trade promotion have been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Willman et al (US 2003/0195806).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-32, 37-76, 88-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. 5,832,458) in view of Willman et al (U.S. 2003/0195806).

As per claim 1, Jones teaches:

A method for an independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion at least including promoted product identification and payment term information for said trade promotion (see column 4, lines 40-67; column 11, lines 20-67) ;

storing the captured terms of the trade promotion in an independent system operator database (see column 4, lines 40-67; column 11, lines 20-67 – column 12, lines 1-40);

collecting from the retailer product POS data from, at least one in-store POS system of the retailer (see column 12, lines 11-40);

filtering the product POS data using the promoted product identification stored in the independent system operator database to obtain promoted product POS data (see column 12, lines 10-40);

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 14-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

Jones teaches processing the promoted product POS data in accordance with the stored payment term information of the trade promotion in the independent system operator database (see column 4, lines 41-67; column 12, lines 10-40) but fails to teach to determine an amount of money the manufacturer owes to the retailer for the trade promotion and facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion. However, Willman teaches a clearinghouse that is

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solely responsible for the electronic flow of invoices, statements, reconciliation and fund transfers between manufacturers and retailers (see paragraph 32). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Jones would use the Willman's clearinghouse to electronically audits and tracks the results of the retailer's efforts while monitoring and recording all POS transactions (see Willman paragraph 24). The retailers would submit the necessary information on promotional support activities to the Willman's clearinghouse, which then, the clearinghouse would invoice the manufacturers for the redemption value of the discounts or promotions. Thus, by crafting the promotional contract around performance goals evidenced by incremental sales volume increases and having recourse to a third party clearinghouse that would audit the performance achieved, both retailers and manufacturers would have a clear and current factual record to use to resolving payment disputes. Using a clearinghouse to handle flow of invoices, statements, reconciliation, fund transfer and retailers' performance data would have the result of a more prompt and accurate settlement between retailers and manufacturers.

As per claim 2, Jones and Willman teach:

The method of Claim 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the, independent system operator database to independently verify the terms of the trade promotion (see Jones column 11, lines 20-67 – column 12, lines 1-40).

As per claim 3, Jones and Willman teach:

The method of Claim 1, which further includes the steps of the independent system operator: enabling the retailer to change the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the trade promotion in the independent system operator database (see Jones column 11, lines 20-67 – column 12, lines 1-40).

As per claim 4, Jones and Willman teach:

The method of Claim 3, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent, system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see column 11, lines 20-67 – column 12, lines 1-40).

As per claim 5, Jones and Willman teach:

The method of Claim 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of promoted products sold during the trade promotion (see Jones column 12, lines 10-40; see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 5.

As per claim 6, Jones and Willman teach:

The method of Claim 5, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes

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to the retailer for the trade promotion (see Jones column 12, lines 10-40; see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 6.

As per claim 7, Jones and Willman teach:

The method of Claim 6, wherein the retailer and manufacturer use an internet to access the stored terms of the trade promotion in the independent system operator database, the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see Jones column 6, lines 53-67; see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 7.

As per claim 8, Jones and Willman teach:

The method of Claim 1, wherein the step of storing the captured terms of the trade promotion includes storing the terms of the trade promotion in at least one predefined table in the independent system operator database (see Jones column 10, lines 58-63).

As per claim 9, Jones and Willman teach:

The method of Claim 8, wherein the step of storing the captured terms of the trade promotion includes creating a UPC lists for the promoted products (see Jones column 5, lines 52-64).

As per claim 10, Jones and Willman teach:

The method of Claim 9, wherein the step of storing the captured terms of the trade promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer (see Jones column 10, lines 19-30).

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As per claim 11, Jones and Willman teach:

The method of Claim 10, wherein the step of storing the captured terms of the trade promotion includes selecting additional products being promoted from the complete UPC code list (see Jones columns 11 and 12).

As per claim 12, Jones and Willman teach:

The method of Claim 1, wherein the retailer has a plurality of stores with in-store POS systems and the step of collecting the product POS data includes collecting product POS data from the plurality of stores and consolidating all of the collected product POS data (see Jones column 6, lines 11-67).

As per claim 13, Jones and Willman teach:

The method of Claim 12, wherein the step of filtering the product POS data includes the step of generating a table of UPC codes for products active in the trade promotion (see Jones column 8, lines 43-67).

As per claim 14, Jones and Willman teach:

The method of Claim 12, wherein the step of filtering the product POS data includes the step of comparing the product POS data to the table of UPC codes to obtain the promoted product POS data (see Jones column 6, lines 27-52).

As per claim 15, Jones and Willman teach:

The method of Claim 1, which further includes the step of the independent system operator verifying that the promoted product POS data is within acceptable tolerances (see Jones column 5, lines 51-64).

As per claim 16, Jones and Willman teach:

The method of Claim 15, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the same product for a period prior to the beginning of the trade promotion (see Jones column 12, lines 10-40).

As per claim 17, Jones and Willman teach:

The method of Claim 1, wherein processing the promoted product POS data in accordance with the stored terms of, the trade promotion in the independent system operator database includes creating at least one, settlement table in the independent system operator database which includes the number of promoted products sold by the retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion, and the amount of money the manufacturer owes to the retailer for the trade promotion (see Jones column 12, lines 10-40; Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 17.

As per claim 18, Jones and Willman teach:

The method of claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes paying the retailer using an electronic fund transfer. Willman teaches a clearinghouse that is solely responsible for the electronic flow of invoices, statements, reconciliation and fund transfers (see Willman paragraph 32 and provisional 60/107,950). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Jones would use the Willman's clearinghouse central server to settle all electronic invoices and fund transfer

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between retailers and manufacturers, as taught by Willman. This feature would result in more prompt and accurate settlement between the parties.

As per claim 19, Jones and Willman teach:

The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator: sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer (see Willman paragraph 32). Willman teaches a clearinghouse that is solely responsible for the electronic flow of invoices, statements, reconciliation and fund transfers between manufacturers and retailers. Therefore, the same rejection applied to claim 1 is applied to claim 19.

As per claim 20, Jones and Willman teach:

The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer (see Willman paragraph 32; Jones column 12, lines 25-30). Therefore, the same rejection applied to claim 1 is applied to claim 20.

As per claim 21, Jones and Willman teach:

The method of Claim 1, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see Jones columns 11 and 12).

As per claim 22, Jones and Willman teach:

The method of Claim 21, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones column 6, lines 27-52).

As per claim 23, Jones and Willman teach:

A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture the terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion (see Jones column 4, lines 40-67 – column 11, lines 20-67);

means for the independent system operator to collect from the retailer product POS data from at least one in-store POS system of the retailer (see Jones column 12, lines 11-40);

means for the independent system operator to filter the product POS data using the promoted product identification to obtain promoted product POS data for the promoted product (see Jones column 12, lines 10-40);

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the captured payment term information of the trade promotion (see Willman paragraph 32); and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion (see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 23.

As per claim 24, Jones and Willman teach:

The system of claim 23, wherein the retailer has a plurality of stores with in-store POS systems and the collection means collects product POS data from the plurality of retailer stores and consolidates the product POS data into a consolidated file for transfer to the filtering means (see Jones column 12, lines 10-40).

As per claim 25, Jones and Willman teach:

The system of Claim 24, wherein the filtering means includes means for the independent system operator to compare the product POS data to a list of UPC for the trade promotion to obtain the promoted product POS data (see Jones column 8, lines 40-67).

As per claim 26, Jones and Willman teach:

The system of Claim 24, wherein the filtering means includes means for comparing the product POS data to a list of UPC's for the promotion to obtain the promoted product POS data (see Jones column 12, lines 10-40).

As per claim 27, Jones and Willman teach:

The system of Claim 23, which further includes means for the independent system operator to report the promoted product POS data to the retailer and the manufacturer (see Jones column 12, lines 10-40).

As per claim 28, Jones and Willman teach:

The system of Claim 27, wherein the reporting means reports the promoted product POS data via the Internet (see Jones column 6, lines 52-67).

As per claim 29, Jones and Willman teach:

The system of Claim 23, wherein the determining means consolidates the promoted product POS data for a plurality of products for the manufacturer (see Jones column 12, lines 10-40).

As per claim 30, Jones and Willman teach:

A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions at least including promoted product identification and payment term information for said trade promotion in an independent system operator database (see Jones column 4, lines 40-67; column 11, lines 20-67);

providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions (see Jones column 12, lines 10-40);

collecting from the retailer the product POS data during the trade promotions from at least one in store POS system of the retailer (see Jones column 12, lines 11-40);

filtering the product POS database on the stored promoted product identification to obtain promoted product POS data (see Jones column 12, lines 11-40);

storing the promoted product POS data in the independent system operator database (see Jones column 12, lines 10-40);

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the payment term information of the trade promotion stored in the independent system operator database (see Willman paragraph 32);

storing the amount of money the manufacturer owes the retailer in the independent system operator database (see Willman paragraph 32);

providing the retailer and manufacturer access to the independent system operator database during the conduct of the trade promotion to determine the amount of

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money the manufacturer owes the retailer for the trade promotion (see Willman paragraph 32); and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer (see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 30.

As per claim 31, Jones and William teach:

The method of Claim 30, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see Jones columns 11-12).

As per claim 32, Jones and William teach:

The method of Claim 31, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones column 6, lines 27-52).

As per claim 37, Jones and William teach:

A system for administering a trade promotion for a promoted product between a retailer and a manufacturer, said system comprising:

an independent system having a processor and an electronic database accessible by the processor which are adapted to capture and store the terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion (see Jones column 4, lines 40-67; column 11, lines 20-67);

to collect from the retailer promoted product POS data for the promoted product of the trade promotion from the retailer (see Jones column 12, lines 11-40);

to process the collected promoted product POS data in accordance with the stored payment term information of the trade promotion in the electronic database(see Jones column 4, lines 40-67; column 12, lines 10-40);

to determine an amount of money the manufacturer owes to the retailer for the trade promotion (see Willman paragraph 32); and

to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the trade promotion (see Willman paragraph 32);

a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data for the promoted product from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the trade promotion to the independent system (see Jones column 12, lines 10-40); and

a manufacturer system in communication with the independent system (see Jones column 11, lines 20-67 – column 12, lines 1-40).

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the

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current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination. Therefore, the same rejection applied to claim 1 is applied to claim 37.

As per claim 38, Jones and William teach:

The system of Claim 37, wherein the independent system is adapted provide the retailer system and the manufacturer system access to the independent system electronic database to independently verify the stored terms of the trade promotion (see Jones column 12, lines 1-40)

to determine the number of promoted products sold during the trade promotion and to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see William column 12, lines 1-40). Therefore, the same rejection applied to claim 1 is applied to claim 38.

As per claim 39, Jones and William teach:

The system of Claim 38, wherein the independent system provides the manufacturer system and the retailer system access to the independent system through the internet (see Jones column 6, lines 53-67).

As per claim 40, Jones and William teach:

The system of Claim 37, wherein the independent system is adapted to generate a table of UPC codes that are active in the trade promotion and to transfer said table of UPC codes to the retailer system (see Jones column 5, lines 51-64 and column 12, lines 1-40).

As per claim 41, Jones and William teach:

The system of Claim 40, wherein the retailer system is adapted to collect product POS data for all of the products the retailer sells and to use the table of UPC codes to filter the product POS data to obtain promoted product POS data for the promoted product (see Jones column 12, lines 1-40).

As per claim 42, Jones and William teach:

The system of Claim 37, wherein the independent system is adapted to verify that the promoted product POS data for the promoted product is within acceptable tolerances for the promoted product (see Jones column 12, lines 1-40).

As per claim 43, Jones and William teach:

The system of Claim 37, wherein the independent system is adapted to consolidate all of the promoted product POS data for a plurality of promoted products for the manufacturer (see Jones columns 11-12).

As per claim 44, Jones and William teach:

The system of Claim 43, wherein the independent system is adapted to process the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones column 6, lines 26-67).

As per claim 45, Jones and William teach:

The method of Claim 1, wherein the step of collecting product POS data from at least one in-store POS system of the retailer includes receiving product POS data from a retailer network after the retailer network receives the product POS data from the in-store POS system of at least one retailer store (see Jones column 12, lines 1-40).

As per claim 46, Jones and William teach:

The method of Claim 1, wherein the retailer has a plurality of retailer stores with in-store POS system, and wherein the step of collecting product POS data from at least one in-store POS system of the retailer includes receiving product POS data from a retailer network after the retailer network receives the product POS data from the in-store POS systems in said plurality of retailer stores (see Jones column 6, lines 27-53).

As per claim 47, Jones and William teach:

A method for an independent system operator to administer a trade promotion for a promoted, product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion (see Jones column 4, lines 40-67 – column 11, lines 20-67);

storing the captured terms of the trade promotion in, an independent system operator database (see Jones column 4, lines 40-67; column 11, lines 20-67 – column 12, lines 1-40);

receiving from the retailer promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer (see Jones column 12, lines 11-40);

processing the promoted product POS data in accordance with the stored payment term information of the trade promotion in the independent system operator database (see Jones column 4, lines 20-67; column 11, lines 20-67 – column 12, lines 1-40);

to determine an amount of money the manufacturer owes to the retailer, for the trade promotion (see Willman paragraph 32) and

facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see Willman paragraph 32).

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have

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to know the products that are in promotion and the payment term information because these items are essential to make such determination. Therefore, the same rejection applied to claim 1 is applied to claim 47.

As per claim 48, Jones and Willman teach:

The method of Claim 47, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see Jones columns 11-12).

As per claim 49, Jones and Willman teach:

The method of Claim 47, which further includes the step of the independent system operator: enabling the retailer to change the stored terms of the promotion prior to the start of the trade, promotion, capturing the changed terms of the trade promotion and storing the changed terms of the trade promotion in the independent system operator database (see Jones columns 11 and 12).

As per claim 50, Jones and Willman teach:

The method of Claim 49, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see Jones columns 11 and 12).

As per claim 51, Jones and Willman teach:

The method of Claim 47, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of the promoted products sold during the trade promotion (see Jones column 12, lines 1-40).

As per claim 52, Jones and Willman teach:

The method of Claim 51, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 52.

As per claim 53, Jones and Willman teach:

The method of Claim 52, wherein the retailer and manufacturer use an internet to access the stored terms of the trade promotion in the independent system operator database, the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion (see Jones column 12, lines 1-40 and column 6, lines 53-67).

As per claim 54, Jones and Willman teach:

The method of Claim 47, wherein the step of storing the captured terms of the trade promotion includes storing the terms of the trade promotion in at least one predefined table in the independent system operator database (see Jones column 12, lines 1-40).

As per claim 55, Jones and Willman teach:

The method of Claim 54, wherein the step of storing the captured terms of the trade promotion includes creating a UPC lists for the promoted products (see Jones column 5, lines 50-64).

As per claim 56, Jones and Willman teach:

The method of Claim 55, wherein the step of storing the captured terms of the trade promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer (see Jones column 6, lines 26-52 and column 12, lines 1-40).

As per claim 57, Jones and Willman teach:

The method of Claim 56, wherein the step of storing the captured terms of the trade promotion includes selecting additional products being promoted from the complete UPC code list (see Jones column 6, lines 26-52 and column 12, lines 1-40).

As per claim 58, Jones and Willman teach:

The method of Claim 47, wherein the retailer has a plurality of stores with in-store POS systems and the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from the plurality of stores (see Jones column 12, lines 1-40).

As per claim 59, Jones and Willman teach:

The method of Claim 58, wherein the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from a retailer network after the retailer network receives the promoted product POS data from the plurality of stores (see Jones column 12, lines 1-40).

As per claim 60, Jones and Willman teach:

The method of Claim 47, which further includes the step of the independent system operator verifying that the promoted product POS data is within acceptable tolerances (see Jones column 12, lines 1-40).

As per claim 61, Jones and Willman teach:

The method of Claim 60, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the promoted product for a period prior to the beginning of the trade promotion (see Jones column 12, lines 1-40).

As per claim 62, Jones and Willman teach:

The method of Claim 60, wherein processing the promoted product POS data in accordance with the terms of the trade promotion includes creating at least one settlement table in the independent system operator database which includes the number of promoted products sold by the retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion, and the amount of money the manufacturer owes to the retailer for the trade promotion (see Jones column 5, lines 52-64 and column 12, lines 1-40).

As per claim 63, Jones and Willman teach:

The method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator paying the retailer using an electronic funds transfer. The same rejection applied to claim 18 is applied to claim 63.

As per claim 64, Jones and Willman teach:

The method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator: sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer (see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 64.

As per claim 65, Jones and Willman teach:

The method of Claim 47, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer (see Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 65.

As per claim 66, Jones and Willman teach:

The method of Claim 47, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see Jones columns 11-12).

As per claim 67, Jones and Willman teach:

The method of Claim 66, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones columns 11-12).

As per claim 68, Jones and Willman teach:

A system for enabling an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

means for the independent system operator to capture terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion (see Jones column 4, lines 40-67; column 11, lines 20-67);

means for the independent system operator to collect from the retailer promoted product POS data for the promoted product from at least one in-store POS system of the retailer (see Jones column 12, lines 11-40);

means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the payment term information of the trade promotion (see Jones column 11, lines 20-67 – column 12, lines 1-40); and

means for the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion (see Willman paragraph 32).

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved,

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both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination. Therefore, the same rejection applied to claim 1 is applied to claim 68.

As per claim 69, Jones and Willman teach:

The system of Claim 68, wherein the retailer has a plurality of stores with in-store POS systems and a retailer network which collects product POS data from the plurality of in-store POS systems in the plurality of stores and filters the consolidated product POS data to obtain consolidated promoted product POS data, and wherein the collecting means is adapted to receive the consolidated promoted product POS data from the retailer network (see Jones column 12, lines 1-40).

As per claim 70, Jones and Willman teach:

The system of Claim 68, where the determining means includes means for verifying that the promoted product POS data is within acceptable tolerances for the promoted product (see Jones column 12, lines 1-40).

As per claim 71, Jones and Willman teach:

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The system of Claim 68, which further includes means for the independent system operator to report the promoted product POS data to the retailer and the manufacturer (see Jones column 12, lines 1-40).

As per claim 72, Jones and Willman teach:

The system of Claim 68, wherein the reporting means reports the promoted product POS data via an internet (see Jones column 6, lines 53-67).

As per claim 73, Jones and Willman teach:

The system of Claim 68, wherein the determining means consolidates the promoted product POS data for a plurality of trade promotions, for the manufacturer and the paying means aggregates payments owed to the retailer by the manufacturer for said plurality of trade promotions (see Jones column 12, lines 1-40; Willman paragraph 32). Therefore, the same rejection applied to claim 1 is applied to claim 73.

As per claim 74, Jones and Willman teach:

A method for an independent system operator to administer a plurality of trade promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions at least including promoted product identification and payment term information for said trade promotion in an independent system operator database (see Jones column 4, lines 40-67; column 11, lines 20-67);

providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions (see Jones column 11, lines 20-67 – column 12, lines 1-40);

receiving from the retailer promoted product POS data during the trade promotions from at least one in-store POS system of the retailer (see Jones column 12, lines 11-40);

storing the promoted product POS data in the independent system operator database (see Jones column 12, lines 10-40) ;

determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the payment term information of the trade promotion (see Willman paragraph 32);

storing the amount of money the manufacturer owes the retailer in the independent system operator database (see Jones column 12, lines 10-40);

providing the retailer and manufacturer access to the independent system operator database during the conduct of the trade promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion (see Jones column 12, lines 10-40); and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer (see Willman paragraph 32).

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume

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increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination. Therefore, the same rejection applied to claim 1 is applied to claim 74.

As per claim 75, Jones and Willman teach:

The method of Claim 74, which further includes the step of the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see Jones columns 11-12).

As per claim 76, Jones and Willman teach:

The method of Claim 75, which further includes the step of the independent system operator processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones columns 11-12).

As per claim 88, Jones and William teach:

A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers

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and a retailer having a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products at least including promoted product identifications and payment term information for said trade promotions (see Jones column 4, lines 40-67; column 11, lines 20-67);

storing the captured terms of each of the trade promotions in at least one independent system database (see Jones column 11, lines 20-67 – column 12, lines 1-40);

receiving from the retailer consolidated promoted product POS data including promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailer (see Jones column 12, lines 10-40);

processing the promoted product POS data the promoted products in accordance with the stored payment term information of the trade promotions in the independent system database for said promoted products (see column 4, lines 40-67; column 11, lines 20-67 – column 12, lines 1-40)

Jones fails to teach to determine amounts of money the manufacturers owe to the retailer for the trade promotions and facilitating the manufacturers' payments of the amounts of money owed to retailer for the trade promotions. However, the same rejection applied to claim 1 is applied to claim 88.

Jones does not expressly mention “promoted product identification and payment term information for said trade promotion”, but in lines 30-40 of column 12 Jones

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teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

As per claim 89, Jones and William teach:

A method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a plurality of retailers where each retailer has a plurality of stores with in-store POS systems, said method comprising the steps of the independent system operator:

capturing terms of each of the trade promotions for each of the promoted products at least including promoted product identifications and payment term information for said trade promotions (see Jones column 11, lines 20-67 – column 12, lines 1-40) ;

storing the terms of each of the trade promotions in at least one independent system database (see Jones column 12, lines 10-40);

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receiving from the retailer consolidated promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailers (see Jones column 12, lines 10-40);

processing the promoted product POS data for each of the promoted products in accordance with the stored payment term information of the trade promotions in the independent system database for said promoted products (see column 12, lines 10-40). Jones fails to teach to determine amounts of money the manufacturers owe to the retailers for the trade promotions; and facilitating the manufacturers payments of the amounts of money owed to the retailers for the trade promotions. However, the same rejection applied to claim 1 is applied to claim 89.

Jones does not expressly mention "promoted product identification and payment term information for said trade promotion", but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would

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have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

As per claim 90, Jones and William teach:

A method for an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

capturing terms of the trade promotion for the promoted product at least including promoted product identification and payment term information for said trade promotion (see Jones column 11, lines 20-67 – column 12, lines 1-40);

storing the captured terms of the trade promotion in an independent system operator database (see Jones column 11, lines 20-67 – column 12, lines 1-40);

enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see Jones column 12, lines 10-40);

enabling the retailer to change at least one of the stored terms of the promotion prior to the start of the trade promotion, capturing any changed terms of the trade promotion and storing any changed terms of the trade promotion in the independent system operator database (see Jones column 12, lines 10-40);

enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify

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the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion (see Jones column 11, lines 20-67 – column 12, lines 1-40);

receiving from the retailer promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer (see Jones column 12, lines 10-40);

processing the promoted product POS-data in accordance with the stored payment term information of the trade promotion in the independent system operator database (see Jones column 11, lines 20-67 – column 12, lines 1-40). Jones fails to teach to determine an amount of money the manufacturer owes to the retailer for the trade promotion and facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion (see column 12, lines 10-40). However, the same rejection applied to claim 1 is applied to claim 90.

verifying that the promoted product POS data is within acceptable tolerances (see Jones column 12, lines 10-40);

enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion (see Jones column 12, lines 10-40); and

Jones does not expressly mention “promoted product identification and payment term information for said trade promotion”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current

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factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

As per claim 91, Jones and Willman teach:

The method of Claim 90, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of the promoted products sold during the trade promotion (see Jones column 12, lines 1-40).

As per claim 92, Jones and Willman teach:

The method of Claim 90, wherein the retailer has a plurality of stores with in-store POS systems and the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from the plurality of stores (see Jones column 6, lines 27-52 and columns 11-12).

As per claim 93, Jones and Willman teach:

The method of Claim 92, wherein the step of receiving the promoted product POS data includes receiving consolidated promoted product POS data from a retailer

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network after the retailer network receives the promoted product POS data from the plurality of stores (see Jones column 6, lines 27-52 and columns 11-12).

As per claim 94, Jones and Willman teach:

The method of Claim 90, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the promoted product for a period prior to the beginning of the trade promotion (see Jones column 12, lines 1-40).

Claims 77-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. 5,832,458) in view of Willman et al (U.S. 2003/0195806) and further in view of Sloane (U.S. 5,918,211).

As per claim 77, Jones teaches:

A method for independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps the independent system operator:

capturing terms of the trade promotion including an identification of the retailer, an identification of the manufacturer, a trade promotion type, a UPC Code for the promoted product, a payment value for the promoted product (see Jones column 5, lines 51-64 and column 12, lines 1-40). Jones fails to teach link codes for associated discounts if the trade promotion is an electronic discount trade promotion storing said captured terms of the trade promotion in an independent system operator database. However, Sloane teaches "frequent shoppers cards also enable the retailer/manufacturer to issue electronic discounts to the consumer at the point of sale

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or to the consumer's frequent shopper card account" (see Sloane column 2, lines 13-18) Also, Sloane teaches "electronic credits and promotional discounts are applied to an electronic consumer account linked to each frequent shopper card. Thus, when the consumer returns to the retail establishment, he will receive the benefit of the previously award credits. The consumer is not always aware of electronic credits, coupons or promotional discounts that have been applied to his electronic consumer account" (see column 8, line 59 – column 9, line 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Jones would use frequent shoppers cards that would enable retailers/manufacturers to issue electronic discounts to consumers at the point of sale terminal or to the consumer frequent shopper card account, as taught by Sloane. Retailers or manufacturer would use the frequent shopper card to better target advertisements or promotions to users.

Jones does not expressly mention "payment value for the promoted product", but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how

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much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

storing said captured terms of the trade promotion in an independent system operator database (see Jones column 12, lines 1-40);

receiving from the retailer promoted product POS data for said trade promotion from at least one in-store POS system of the retailer (see Jones column 12, lines 11-40).

Jones teaches processing the promoted product POS data in accordance with the payment value for the promoted product of the trade promotion stored in the independent system operator database (see Jones column 12, lines 11-40) and

Jones fails to teach to determine an amount of money the manufacturer owes to the retailer for the trade promotion. However, Willman teaches a clearinghouse central server that is solely responsible for the electronic flow of invoices, statements, reconciliation and fund transfers between manufacturers and retailers (see paragraph 32). Therefore, the same obviousness rejection made in claim 1 is also made in claim 77.

As per claim 78, Jones, William and Sloane teach:

The method of Claim 77, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion (see Jones columns 11-12).

As per claim 79, Jones, William and Sloane teach:

The method of Claim 77, which further includes the step of the independent system operator: enabling the retailer to change at least one of the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the trade promotion in the independent system operator database (see Jones column 12, lines 1-40).

As per claim 80, Jones, William and Sloane teach:

The method of Claim 79, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed any of the terms of the trade promotion (see Jones columns 11-12).

As per claim 81, Jones, William and Sloane teach:

The method of Claim 77, which further includes the step of consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer (see Jones column 11-12).

As per claim 82, Jones, William and Sloane teach:

The method of Claim 77, which further includes the step of processing the consolidated promoted product POS data for a plurality of retailers for the manufacturer (see Jones columns 11-12).

As per claim 83, Jones and Willman teach:

The method of Claim 77, but does not expressly teach wherein the step of capturing terms of the trade promotion further includes capturing special payment terms. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that special payment terms would be another trade promotion offer by retailers, the same as offering price reduction or free goods and this feature would be added to Jones and Willman.

Claims 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U.S. 5,832,458) in view of Sloane (U.S. 5,918,211).

As per claim 84, Jones and Sloane teach:

A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of promoted products to independently verify terms of the trade promotions for the promoted products using an independent system, said method comprising the steps of:

capturing the terms of the trade promotions for the promoted products in an independent system which operates independently of the control of the retailer and the manufacturer, including retailer identification, manufacturer identification, trade promotion type, UPC Codes for the promoted products, payment values for the promoted products (see Jones columns 11-12). Jones fails to teach and link codes for associated discounts if any of the trade promotions are electronic discount trade promotions. However, Sloane teaches "frequent shoppers cards also enable the retailer/manufacturer to issue electronic discounts to the consumer at the point of sale or to the consumer's frequent shopper card account" (see Sloane column 2, lines 13-18)

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Also, Sloane teaches “electronic credits and promotional discounts are applied to an electronic consumer account linked to each frequent shopper card. Thus, when the consumer returns to the retail establishment, he will receive the benefit of the previously award credits. The consumer is not always aware of electronic credits, coupons or promotional discounts that have been applied to his electronic consumer account” (see column 8, line 59 – column 9, line 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Jones would use frequent shoppers cards that would enable retailers/manufacturers to issue electronic discounts to consumers at the point of sale terminal or to the consumer frequent shopper card account, as taught by Sloane. Retailers or manufacturer would use the frequent shopper card to better target advertisements or promotions to users.

Jones teaches storing the captured terms of the trade promotions in an independent system database (see Jones columns 11-12); and

Jones does not expressly teach, “enabling the retailer and the manufacturer to access the independent system database to determine the stored terms of the trade promotions”. However, Jones teaches in lines 10-30 of column 12 that the audit system stores and documents the promotional performance on behalf of the retailer and that the retailer and the manufacturer have access to this information to support the settlement process. Therefore, it would be inherent that the audit system stores the promotional performance in its database, and that this database would be accessible to the retailer or manufacturer to help them in the settlement process.

As per claim 85, Jones and Sloane teach:

The method of Claim 84, wherein the step of the independent system enabling the retailer and manufacturer to access the database to determine the terms of the trade promotions includes enabling the retailer and manufacturer to access the independent system database through an internet (see Jones column 6, lines 53-67 and columns 11-12).

As per claim 86, Jones and Sloane teach:

The method of Claim 84, which further includes the step of the independent system: enabling the retailer to change at least one of the captured terms of the trade promotions prior to the start of the trade promotions, capturing the changed terms of the trade promotions and storing the changed terms of the trade promotions in the independent system database (see Jones column 12, lines 1-40).

As per claim 87, Jones and Sloane teaches:

The method of Claim 86, which further includes the step of the independent system enabling the retailer and the manufacturer to access each of the terms of the trade promotions stored in the independent system database to independently verify each of the terms of the trade promotions and to determine if the retailer changed any of the terms of the trade promotions (see Jones columns 11-12).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 33-36 are rejected under 35 U.S.C. 102(a) as being anticipated by Jones (5,832,458).

As per claim 33, Jones teaches:

A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of products to independently verify the terms of the trade promotions, said method comprising the steps of:

capturing the terms of the trade promotions at least including promoted product identification and payment term information in an independent system which operates independently from the retailer and the manufacturer (see Jones column 4, lines 40-67; column 11, lines 20-67);

storing the captured terms of the trade promotions in an electronic database of the independent system (see column 4, lines 40-67; column 11, lines 20-67 – column 12, lines 1-40); and

enabling the retailer and the manufacturer to access the electronic database of the independent system to determine the stored terms of the trade promotions (see column 12, lines 10-40).

Jones does not expressly mention “promoted product identification and payment term information”, but in lines 30-40 of column 12 Jones teaches that by crafting the promotion contract around performance goals evidenced by incremental sales volume increases, and having recourse to a valid third party audit of the performance achieved, both retailer and manufacturer have a clear and current factual record to use in resolving payment disputes. An audit, according to Jones, materially reduces the

current cost for both retailers and manufacturers to track, collate, and transmit data on performance. As a result, a prompt and accurate settlement between the parties materially reduces the cost of resolving the disputes fostered by the current process. Therefore, it would be inherent that to track the performance that would help manufacturers determine how much money they owed to the retailers, they would have to know the products that are in promotion and the payment term information because these items are essential to make such determination.

As per claim 34, Jones teaches:

The method of Claim 33, wherein the step of enabling the retailer and manufacturer to access the electronic database of the independent system to determine the terms of the trade promotions includes enabling the retailer and manufacturer to access the electronic database of the independent system through the internet (see column 6, lines 53-67).

As per claim 35, Jones teaches:

The method of Claim 34, which further includes the step of enabling the retailer to change the terms of the trade promotions stored in the electronic database of the independent system prior to the start of the trade promotions, capturing the changed terms of the trade promotions and storing the changed terms of the trade promotions in the electronic database of the independent system (see columns 11-12).

As per claim 36, Jones teaches:

The method of Claim 35, which further includes the step of enabling the retailer and the manufacturer to access the terms of the trade promotions stored in the

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electronic database of the independent system to independently verify the terms of the trade promotions and to determine if the retailer changed any of the terms of any of the trade promotions (see columns 11-12).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

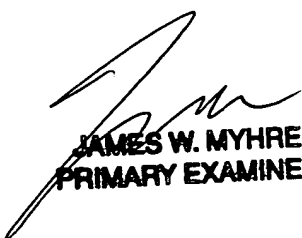
The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number 571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra

January 31, 2005


JAMES W. MYHRE
PRIMARY EXAMINER


JOHN J. LOVE
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